IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 28298 of 2007(R)

OS.415/2007 of M.C., ERNAKULAM
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PETITIONERS:
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1. DR. BINDHU SARAN,AGED 41 YEARS,
W/O. GANGASARAN, PALARIVATTOM,
ERNAKULAM.

2. BEENA PRABHA, AGED 38,
W/O. PRABHA POOTHRAYIL,EROOR,NADAMA VILLAGE,
(VIA) THRIPUNITHURA, ERNAKULAM DISTRICT.

BY ADV. SRI.K.P.SREEKUMAR

RESPONDENT:

P.K.JAMUNA, AGED 50 YEARS,
W/O. T. GOPALAKRISHNAN,
THEKKEMATTUMMAL HOUSE,EROOR SOUTH P.O.
NADAMA VILLAGE, NOW RESIDING AT "KRISHNA KRIPA"
NADAKAVU P.O. UDAYAMPEROOR.

BY ADV. SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN
SRI.P.V.THOMAS
SRI.P.R.AJITHKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioners' Exts:

Ext.P1 true copy of the agreement alleged to have been entered into between deceased Prabhakaran Nair and Krishna Menon.

Ext.P2 true copy of the plaint in OS 415/2007 on the file of the Munsiff's Court, Ernakulam, filed by the respondent against the petitioners herein.

Ext.P3 true copy of IA 4610/2007 filed by the petitioners herein in OS 415/2007 on the file of the Munsiff's Court, Ernakulam.

M.N.Krishnan, J.

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W.P(C).No.28298 of 2007

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Dated this the 25th day of October, 2007.

JUDGMENT

This Writ Petition is filed seeking a direction to the II Additional Munsiff, Ernakulam to take up and dispose of I.A.No.4610 of 2007 in O.S.No.415 of 2007 within a time frame. It is an application whereby the defendants want the court to consider the case under Order 7 Rule 11 of C.P.C. and rejected the plaint for the reason that there is no cause of action disclosed. Unfortunately, before taking up that petition the court had set the defendants ex parte for not filing the written statement. So, the matter stands now an ex parte order passed against the defendants.

2. In order to make the procedure proper, I direct the writ petitioner to file an application for setting aside the ex parte order and the court below shall set it aside and then permit the respondent in I.A.No.4610 of 2007 to file objection in that application within a time frame and then hear and dispose of the

interim application in accordance with law within a time frame of one month from today.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 25/10